

## ARTICLE VIII. NONCONFORMITIES\*

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\*Cross references: Buildings and building regulations, ch. 8.

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### **Sec. 44-256. Classification.**

- (a) For the purposes of this chapter, nonconformities are classified as follows:
- (1) Lots;
  - (2) Uses of land without structures;
  - (3) Uses of structures;
  - (4) Structures; and
  - (5) Characteristics of uses which were lawful when established but would be prohibited, regulated or restricted by this chapter or a subsequent amendment.
- (b) Nonconformity may also be created where lawful public taking or actions pursuant to a court order have the same effect as violations of this chapter, if undertaken privately.
- (Code 1995, § 515.120)

### **Sec. 44-257. Intent.**

It is the intent of this chapter to allow nonconforming uses of buildings or structures, provided that they conform to the requirements of this article. However, it is not the intent of this chapter that nonconformity be used as grounds for the addition of other prohibited uses of structures on the zoning lot.

(Code 1995, § 515.121)

### **Sec. 44-258. Nonconforming land.**

The following provide the conditions under which the nonconforming use of land shall be continued:

- (1) Nonconforming uses of land shall not be enlarged or extended in any way.
  - (2) Any nonconforming uses of land may be changed to a conforming use or, with the approval of the board of adjustment, to any use more in character with the uses permitted in the district.
- (Code 1995, § 515.122)

**Sec. 44-259. Nonconforming buildings.**

The conditions under which the nonconforming building shall be continued are the following:

- (1) Nonconforming buildings and nonconforming uses of buildings may be enlarged upon the existing lot or tract which was, on March 20, 1989, part of a business or industrial lot or tract and intended for such use where, in the opinion of the board of adjustment, such extension would not substantially increase traffic volumes, air pollution, water pollution, noise pollution, provision of services and utilities or in some other way adversely affect the health, safety or welfare of the residents of the area. In permitting such extension, the board of adjustment may require appropriate conditions and safeguards in accord with this chapter.
- (2) Any nonconforming building or use of buildings may be changed with the approval of the board of adjustment to any use more in character with uses permitted in the district. In permitting such change the board of adjustment may require appropriate conditions and safeguards in accord with this chapter.
- (3) If active operations are discontinued for a continuous period of 180 days with respect to a nonconforming use of a building, such nonconforming use shall thereafter be occupied and used only for a conforming use.

(Code 1995, § 515.123)

**Sec. 44-260. Rebuilding nonconforming uses after damage or destruction.**

- (a) Nonconforming single-family residences or two-family residences which are partially or fully destroyed may be rebuilt or repaired as a matter of right, provided that all other requirements of this Code are complied with, as it applies to the construction of single-family and two-family residences.
- (b) (1) Nonconforming commercial, industrial and multifamily (three or more dwelling units) structures, which are partially or fully destroyed, may be rebuilt or repaired as a matter of right, provided that the board of adjustment can make the following findings:
  - a. The use will not adversely affect traffic.
  - b. The use will not adversely affect the physical environment pertaining to water pollution, air pollution, and noise pollution.
  - c. The use will not adversely affect the provision of services and utilities.
  - d. The use will not create a health or safety hazard.

- e. The use will not adversely affect other property values.
  - f. The use will not impair the public safety and welfare of the surrounding neighborhood and substantial justice would be done in carrying out the request.
- (2) In permitting such reconstruction, the board of adjustment may require appropriate conditions and safeguards to protect the purpose and intent of this chapter.
- (c) In meeting to decide on the issuance of a permit under subsection (b) of this section, the board of adjustment must hold a public hearing. Notice of this hearing shall be posted on the property under consideration and advertised in a legal notice in a local newspaper for at least ten days prior to the hearing. The legal notice shall describe the request and shall appear at least once weekly for two consecutive weeks.

(Code 1995, § 515.124)

**Sec. 44-261. Inventory of nonconforming uses.**

The zoning administrator shall make an inventory of all uses of open land and uses of structures not meeting the requirements of this chapter. This inventory, which shall include all land within the zoning jurisdiction of the county, shall contain the location and a description of the use and the name and address, as contained in the current tax roll, of the owner of the lot on which each use is located. Additionally, for each use, the zoning administrator shall note the reason for the determination that each use falls under this section.

(Code 1995, § 515.125)

Secs. 44-262--44-290. Reserved.

**CATAWBA COUNTY  
APPLICATION FOR CHANGE OF USE  
FOR NONCONFORMING STRUCTURE**

**APPLICATION NO.**\_\_\_\_\_

The undersigned owner(s) of the following legally described property hereby requests that their nonconforming use of building(s) may be changed upon the existing lot or tract described herein:

**NAME OF APPLICANT:** \_\_\_\_\_  
**MAILING ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_

**PHONE #:**        **HOME**\_\_\_\_\_        **BUSINESS**\_\_\_\_\_

**PROPERTY I.D. #**\_\_\_\_\_

**EXISTING USE:** \_\_\_\_\_

**ZONING CLASSIFICATION:** \_\_\_\_\_

**Description of how use of structure will be changed:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Section 515.123 NONCONFORMING BUILDINGS.**

“(B) Any nonconforming building or use of buildings may be changed with the approval of the Board of Adjustment to any use more in character with uses permitted in the district. In permitting such change the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this chapter.”

**Supporting information:**

A site plan showing existing building(s) and summary of existing use and proposed use for building. Scale no smaller than 1" = 100 ft.

**DATE**\_\_\_\_\_        **APPLICANT**\_\_\_\_\_

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**Filing fee paid** \_\_\_\_\_  
**Date advertised** \_\_\_\_\_

**Date Filed** \_\_\_\_\_  
**Date Posted** \_\_\_\_\_

**CATAWBA COUNTY  
APPLICATION FOR EXTENSION OF USE  
FOR NONCONFORMING STRUCTURE**

**APPLICATION NO.** \_\_\_\_\_

The undersigned owner(s) of the following legally described property hereby requests that their nonconforming use of building(s) may be extended upon the existing lot or tract described herein:

**NAME OF APPLICANT:** \_\_\_\_\_  
**MAILING ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_

**PHONE #:**                **HOME** \_\_\_\_\_ **BUSINESS** \_\_\_\_\_

**PROPERTY I.D. #** \_\_\_\_\_

**EXISTING USE:** \_\_\_\_\_

**ZONING CLASSIFICATION:** \_\_\_\_\_

**Description of how structure will be extended or enlarged:** \_\_\_\_\_

\_\_\_\_\_

**Section 515.123 NONCONFORMING BUILDINGS.**

- “(A) Any nonconforming building and nonconforming uses of building may be enlarged upon the existing lot or tract which was, on March 20, 1989, part of a business or industrial lot or tract and intended for such use where, in the opinion of the Board of Adjustment, such extension would not substantially increase traffic volumes, air pollution, water pollution, noise pollution, provision of services and utilities or in some other way adversely affect the health, safety or welfare of the residents of the area. In permitting such extension, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this chapter.”

**Supporting Information:**

A surveyed site plan showing property lines, streets, location of existing building(s) and any proposed addition(s) or proposed new buildings for this tract of land.  
Scale no smaller than 1" = 100 ft.

**DATE** \_\_\_\_\_ **APPLICANT** \_\_\_\_\_

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**Filing fee paid** \_\_\_\_\_  
**Date advertised** \_\_\_\_\_

**Date Filed** \_\_\_\_\_  
**Date Posted** \_\_\_\_\_